IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.25142 of 1997

Dated: March 7, 2007

Between:

Smt. D. Laxmamma, W/o. late D. Balaiah Chary,
Aged 60 years, Occ: Household, R/o.8-4-371/B/1, 19/1,
Saradhi Cooperative Housing Society Colony, near
Kalyan Nagar III Phase, Borabanda, Erragadda,
Hyderabad, Andhra Pradesh, and another.

… Petitioners

And

The Special Officer and Competent Authority,
Urban Land Ceilings, Chandravihar, III Floor,
Nampally, Hyderabad, A.P., and another.

… Respondents

Order:

In this Writ Petition, petitioners have questioned the notice issued under Section 10 (3) of the Urban Land Ceiling Act, 1976 ('the Act' for brevity) which was published in the A.P. Gazette on 25-03-1992 by which an extent of 67,213 Sq. Mts. situated in

Sy.No.128/1, Yousufguda, is declared as surplus and the same is vested with the Government

2. In the affidavit filed in support of the Writ Petition, it is stated that originally, respondents 2 to 6 were the owners and possessors of land in S.No.128/1 situated at Yousufguda, Golconda Mandal, Hyderabad, to an extent of Ac.16.00 guntas by virtue of a registered sale deed dated 09-11-1962. They entered into an agreement of sale with one Saradhi Cooperative Housing Society Ltd., (the Society) seventh respondent, on 16-06-1974 agreeing to sell the land in question to it and pursuant to the said agreement, the society had paid a sale consideration of Rs.48,500/- to respondnets 3 to 6, who in turn delivered the vacant and peaceful possession of the land in question to the society in 1975. Thereafter, the Society had plotted the entire land, named it as Vijayapuri Colony and allotted plots to its members and delivered possession thereof.

3. It is stated that one Shri Himam Hussain, who was a member of the Society and who was allotted Plot No.119, admeasuring 250 Sq. yards, sold the same to one Smt. Prameela, who in turn sold 125 Sq. yards, out of the extent of 250 Sq. yards to Petitioner No.1. The said land now bears Municipal No.8-4-371/B/119/1, Vijayapuri Colony, Borabanda, Erragadda. Similarly, Petitioner No.2 was allotted Plot No.54 in the said colony, which admeasures 263 Sq. yards., and the premises bears Municipal No.8-4-371/B/93.

4. The case of petitioners is that in view of the advent of the provisions of the Act, the Society made an application to the respondents to exempt the land under Section 20 (i) (b) of the Act. It is stated that though the first respondent, Special Officer and

Competent Authority, Urban Land Ceilings, Hyderabad, has recommended for such exemption, the Government has not passed any orders. It is stated as the Society has applied for exemption and the Special Officer has recommended for such exemption, members of the Society made constructions in anticipation of exemption from the second respondent. The grievance of petitioners is that while the matter was pending before the second respondent, the first respondent had issued notice dated 04-03-1993 under Section 10 (5) of the Act, declaring that the entire land covered by Survey No.128/1 admeasuring 67,213 Sq. Mts. has been acquired by the Government under the provisions of the Act and to surrender the same.

5. It is stated that, aggrieved by the same, all the members of the Society made a representation to the second respondent to stop further action proposed in the aforesaid notice. When no action was being taken on the said representation, members of the Society filed W.P.No.14734 of 1994 before this court along with a petition in W.P.M.P.No.18074 of 1994 to stay the proposed action. It is stated that this court has granted interim stay restraining the respondents from evicting petitioners therein, from their respective premises. It is alleged that while things stood thus, respondents have initiated action and demolished the buildings raised by the petitioners and other members of the Society.

6. The grievance of petitioners is that though they are *bona fide* purchasers of plots, having purchased the same from the Society, respondents are initiating action to demolish the structures raised by them, on the ground that the land in question has been declared as

excess by the Government by the aforesaid notification.

7. Respondent No.1 has filed counter affidavit stating that one U. Narmada Devi has filed declaration under Section 6 (1) of the Act declaring an extent of 68,213 Sq. Mts. of land in Sy.No.128/1. After conducting enquiry on the said declaration, by allowing retainable extent of 1000 Sq. Mts., under Section 4 (1) (b) of the Act, remaining area of 67,213 Sq. Mts. was declared as surplus land in the final orders passed under Sections 8(4) and 9 of the Act in C.C.No.E1/10530/76 dated 29-11-1983. It is further stated that consequent to the said final orders, declaration was published under Section 10 (3) of the Act on 25-03-1992 and notice under Section
10 (5) of the Act was also served on the declarant and occupants to vacate from the land declared as surplus and to deliver the possession within 30 days therefrom. It is also stated that subsequently, the surplus land taken over has been allotted by the Government of Andhra Pradesh to the District Collecter, Hyderabad, vide G.O.Ms.No.981 Revenue (UC) Department dated 26-09-1994. It is further stated that the excess land which is vested with the Government was illegally sold by the declarant by mentioning fictitious house numbers and as such petitioners did not derive any title and the said transactions are in violation of the provisions under Section 5(3) read with Section 28 of the Act.

8. Even according to the petitioners, the land in question was not transferred in favour of the Society. In the absence of any valid transfer of the land in question to the Society, the question of allotment of plots of land to the members does not arise. There is no valid transfer of land at all. Moreover, this Writ Petition has been

filed 4 ½ years after the notification under Section 10 (3) of the Act, was issued. Though the Society and its members have been made party respondents in the Writ Petition, the same was dismissed for default so far as respondents 3 to 7 are concerned, by an order of this court dated 23-08-2000. At this stage, no relief can be granted to the petitioners, who did not derive any title basing on the sale deeds. Hence, they cannot question the impugned notification, more so, at this point of time. However, during the course of arguments, it is stated that the Government has issued G.O.Ms.No.455, dated 29.07.2002, for regularization of surplus land, with certain conditions. If the petitioners fit into the category as mentioned in the aforesaid G.O., it is open for them to file applications before the respondents seeking regularization of their lands and if any such applications are received, respondents shall consider the same in accordance with the G.O. referred above and pass appropriate orders.

9. Subject to the above observations, the Writ Petition is disposed of. No costs.

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JUSTICE R. SUBHASH REDDY.

March 7, 2007
MRR